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November 25, 2015

Via Email (mdebeau@sec.gov)

Federal Election Commission
Office of Complaints Examination and Legal Administration
999 E Street, N.W.
Washington, D.C. 20436

Attention: Mary Beth deBeau, Paralegal

Re: RR 15L-32, Joni for Iowa (C00546788)

To Whom It May Concern:

This letter responds to Jeff S. Jordan's September 22, 2015 letter to Mr. Cabell Hobbs, in his official capacity as treasurer of Joni for Iowa, and Joni for Iowa (collectively "JFI"). Joni for Iowa urges the Commission to take no further action on the Reports Analysis Division's ("RAD") referral to the Office of General Counsel ("Referral") for possible violations of the Federal Election Campaign Act ("Act").

I. The Referral is a flawed document.

A. The Referral presents an unfair picture of JFI's activities.

The Referral centers on late refunds for excessive or prohibited contributions. Reading the Referral, one is presented with a picture of a committee that flaunted the law by accepting many excessive and impermissible contributions. That picture is further marred by the Referral's discussion of frequent Requests for Additional Information ("RFAs") that suggest JFI made frequent errors and required the Commission to find its mistakes for it. Upon careful review, however, three things become apparent:

- First, all of the excessive and impermissible contributions referenced in the Referral have been refunded.
- Second, the Referral ultimately deals only with a relatively small number of excessive or prohibited contributions that were not refunded within the 60-day window provided for in the regulations at 11 C.F.R. §

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generated matters." 74 Fed. Reg. 38,617 (Aug. 4, 2009). As the Commission has said, these regulations were intended to "improv[e] the transparency, fairness and efficiency" of the Commission's "policies, practices and procedures." Fed. Election Comm'n, RECORD, Feb. 2009, at 1. The procedures state that for referrals initiated by RAD, "[t]he notice will contain a copy of the referral document." 74 Fed. Reg. 38,617 (Aug. 4, 2009). With this information in hand, "respondents in non-complaint generated enforcement matters" will have "notice of the basis of the allegations" against them "and an opportunity to respond." *Id.*

This concluding paragraph of the Referral says:

Between April 21 and June 25, 2015, the Reports Analysis Division (RAD) Analyst communicated with the Committee several times by phone and email to assist the Committee in resolving excessive contributions received during the 2013-2014 election cycle. The Analyst advised the Committee to refund those excessive contributions which had not already been refunded (Attachment 4).

It appears that Attachment 4 is a summary or log of the communications between JFI and the analyst. When Attachment 4 was not included with the Referral, JFI requested a copy Attachment 4, thinking it had inadvertently been left off (the Referral arrived without the first page of the cover letter and with several pages out of order, so this seemed likely). The Commission's response was that: "Attachment 4 of the document is classified as sensitive internal information, and cannot be distributed." E-Mail from Mary Beth deBeau, Paralegal Specialist, Office of General Counsel, to Ronald M. Jacobs, Partner, Venable LLP, Oct. 8, 2015, 8:10 EST.

The classification of Attachment 4 as "sensitive internal information" is troubling for two reasons. First, it appears to be a log of communications between JFI and the analyst. As such, it is hard to see how this could possibly be "internal information."

Second, it puts JFI at a serious disadvantage because it does not know what the analyst may have recorded in her notes, or whether there is a discrepancy between its understanding of certain events and what has been recorded by

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to determine if the contribution limit had been met. The multicandidate committee check should have gone to a joint-fundraising committee where it would have been allocated to a different recipient, but was mis-deposited by the vendor responsible for compliance. The refunds were made well beyond the time they were due, but the delay was the result of the vendor not carrying out its functions properly.

B. JFI had selected a reputable vendor, which failed in its duties to JFI, and has been replaced.

JFI retained a nationally-known vendor to handle its FEC compliance. This vendor's senior executives had experience on a presidential general election campaign and the vendor has represented other Senate campaigns. The vendor was responsible for maintaining records, keeping the books, screening contributions, issuing refunds, and filing reports. The vendor's president and founder served as JFI's treasurer (as he did for other campaigns the company served).

As a result of the RFAIs noted in the Referral, and other issues, JFI lost confidence in the vendor and terminated the relationship in mid-April 2015. The transition to a new vendor was an expensive undertaking and imposed significant costs on JFI—costs that JFI thought were worth it in order to find a vendor that would do a better job.

Many of the excessive individual contributions were received shortly before the election. Had the vendor performed as expected, it would have sought redesignation of the contributions to the 2020 primary election. Thus, not only did the vendor not satisfy FEC refund timelines, its flawed performance cost JFI significant resources for the next election. Because the vendor did not perform the tasks it contracted to handle, it would be unfair to further punish JFI for the vendor's errors.

III. JFI has taken additional steps to make certain it is in compliance.

In addition to terminating its vendor, JFI has selected a new vendor that has an excellent track record with compliance. It has responded to all of RAD's inquiries and made certain that its books balance and are in good order. In addition, JFI has worked with the new vendor to put in place plans for obtaining reattribution or redesignation for excessive contributions, or for making

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refunds in a timely fashion. In addition to the new vendor, JFI has adopted a new database that will make aggregating contributions easier, so it will be able to determine more quickly whether there are any contributions triggering further action.

Conclusion

Given the lack of due process, the relatively small amounts at issue compared to the overall amount JFI raised, the fact that all excessive or impermissible contributions were never spent and were fully refunded, and JFI's remedial steps taken—including terminating and replacing the vendor that caused these issues—JFI respectfully requests the Commission exercise its prosecutorial discretion and take no further action in this matter.

Respectfully submitted,



Ronald M. Jacobs
Counsel for Joni for Iowa and
Cabell Hobbs in his Official Capacity as Treasurer

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